

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

JAMES J. MONETTE,

RESPONDENT.

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FINAL DECISION AND ORDER

LS08111913APP

Division of Enforcement Case No. 07 APP 053

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

James J. Monette
10 Lambeth Circle
Madison, WI 53711

Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent James J. Monette (“Monette”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 10 Lambeth Circle, Madison, WI 53711, and whose date of birth is February 10, 1968, possesses a certificate of licensure as a licensed appraiser (#4-878). The license was first granted on September 28, 1994, and will expire on December 14, 2009.

2. On May 28, 2007, Mr. Monette’s request for certification of AQB Compliance to the Federal Registry general appraiser was denied by the Department of Regulation and Licensing, based upon a review of three appraisal reports completed by Mr. Monette. The three appraisals reviewed were from 2003 and 2004, and were the among the most recent work on the roster submitted by Mr. Monette at that time.

3. The review of the appraisal reports shows violations of the applicable Uniform Standards of Professional Appraisal Practice (USPAP) including, but not limited to, the following:

- a. USPAP Standards Rule 1-2 (a), by failing to explicitly identify the clients and intended users of the appraisal reports reviewed.
- b. USPAP Standards Rule 1-2 (c), by failing to develop opinions of reasonable exposure time linked to the value opinions.
- c. USPAP Standards Rule 1-2 (e), by inaccurately describing the characteristics of one or more of the subject properties.

- d. USPAP Standards Rule 1-2 (f), by failing to include scope of work statements in his reports.
 - e. USPAP Standards Rule 1-4 (a), by making inappropriate and inadequate adjustments when employing the sales comparison approach to valuation, and failing to summarize reasoning for the lack of some adjustments that are typically made by most appraisers (e.g. differences in bedroom count).
 - f. USPAP Standards Rule 1-4 (b), by failing to support concluded land value when employing the cost approach to valuation.
 - g. USPAP Standards Rule 1-4 (c), by failing to employ the income approach to valuation in two of three reports, and/or to provide any reasoning for failing to do so; and by making unsupported conclusions when employing the income approach in the third report reviewed.
 - h. USPAP Standards Rule 1-5, by failing to analyze current agreements of sale.
 - i. USPAP Standards Rule 1-6, by stating in his reconciliation section that, “the income approach was given less reliance...” when no income approach was developed in two of three reports.
 - j. USPAP Standards Rule 2-2, by failing to identify the reporting options used.
4. Per Wis. Stat. § 458.26 (3), “... the board may limit, suspend or revoke any certificate under this chapter... if the... board finds that the... holder of the certificate has done any of the following: (b) Engaged in unprofessional... conduct in violation of rules promulgated under s. 458.24.
5. Per Wis. Admin. Code § RL 86.01 (2), “All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I.”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.
2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).
3. By performing appraisals and rendering an appraisal reports that do not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, **James J. Monette** has committed four or more violations of Wis. Admin. Code § RL 86.01 (2), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of **James J. Monette** (# 4-878) shall be, and hereby is, ordered to present proof successful completion of no less than SIXTY-SEVEN (67) hours of remedial education in lieu of a reprimand, which shall consist of the following courses, or equivalent courses if approved in advance by the Board’s Monitoring Liaison: (a) Basic Appraisal Prior to 1975, a 30-hour course offered by the Appraisal Institute; (b) Basic Appraisal Procedures, a 30-hour course offered by the Appraisal Institute; and (c) Effective Report Writing, a seven-hour course offered by the Appraisal Institute. At least 50% of the course hours submitted in compliance with this Order must have been conducted on-site in the presence of an instructor. Successful completion of any course ordered by this paragraph shall be defined to include successful completion of any associated exam, if offered. Any course completed pursuant to this paragraph cannot be counted towards Respondent’s continuing education obligations.

IT IS FURTHER ORDERED that:

2. **James J. Monette** shall pay costs of these investigations in the amount of TWO HUNDRED DOLLARS (\$200.00) within ninety (90) days of the date of signing of this Order.
3. Proof of completion of coursework, payment of costs, and all other submissions required by the Order shall be

mailed, faxed, delivered or otherwise transmitted to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

4. Case number 07 APP 053 is hereby closed.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being and may result in a summary suspension of Respondent's license and certification. The Real Estate Appraisers Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to timely submit any payment of costs as set forth above, or fails to comply with the conditions of this Order, the Respondent's license and certification (#4-878) SHALL BE SUSPENDED, without further notice or hearing, until such time as Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Marla Britton
A Member of the Board

11/19/08
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
JAMES J. MONETTE,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 07 APP 053

It is hereby stipulated and agreed, by and between James J. Monette, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation against Respondent’s licensure and certification by the Division of Enforcement (07 APP 053). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board’s final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

JAMES J. MONETTE

Respondent

10 Lambeth Circle

Madison, WI 53711

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date